

swaps—that have no insurable interest. We will regret the day we didn't address this issue head on.

I understand why there is pushback from Wall Street and why some will be nervous about voting for this. They will want to table it because they are getting pushback from Wall Street. Wall Street is wrong—dead wrong. They don't need, nor do American banks need, to be trading credit default swaps in order to make money. Yet, as I indicated to you, five of the largest financial institutions in this country have 90 percent of the credit default swaps. We think about 80 percent of them are without any insurable interest in anything. That is wagering, not investing.

This country deserves better, and the American people deserve for the Congress to stand up to Wall Street and say: You know what, the creation of these instruments exacerbated the economic troubles of this country in a significant way, and at long last it is time to put an end to it. This amendment simply bans the use of naked credit default swaps. It has a provision that says, if such a ban in a certain time-frame would cause undue—Mr. President, the Senate is not in order.

There is a provision in this legislation that, as opposed to a ban on a date certain, if that would prove to be troublesome, it would stretch out for an 18-month period by which such a ban could take effect.

Let me say this. I understand the tabling motion will be made. My hope is that colleagues who believe we ought to take on Wall Street on these issues will stand up for the American people on these issues and do the right thing on these issues, especially since we are living in the shadow of a near collapse of this economy.

My hope is that my colleagues will vote against tabling this amendment and, thereby, express their support for the amendment I am offering.

I am offering this amendment on behalf of colleagues which I will submit for the RECORD as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I wish to speak a couple of minutes. This is the first opportunity we have had, with all the other amendments we talked about, to even talk about this very critically important part of the legislation, and that is the section dealing with derivatives, which is a source of major interest.

I wish to spend a couple of minutes describing to my colleagues what is in this bill that is before us dealing with derivatives, and then I will express some concerns about the amendment of my good friend and colleague from North Dakota. Then at the conclusion of that, unless others would like to be quickly heard on this matter, I will move to table the Dorgan amendment.

That is normally not what we have done. There have been no tabling mo-

tions made over these 2½ weeks. Let me express my regret that Senator DORGAN was unable to get a straight up-or-down vote on his amendment. Even though I have concerns about it, I tried over the last 2 weeks to have everyone have their amendments raised so we could have a good, vibrant, full-throated debate on matters and let Members decide. In some cases, we had a 60-vote margin; in most cases a 50-vote margin. No one has said to anyone yet: Your amendment can't come up.

I say to the Senator from North Dakota, I tried to see to it that everybody has the opportunity to be heard. As he knows and others know, we have had a stalemate this afternoon on whether matters can be heard.

As I said, derivatives, as most of my colleagues and many in the country understand, are essentially hedges or bets whose worth rises and falls with the price of something in the marketplace. They can be very commonsense financial tools to help businesses manage their costs. The word is taken on a pejorative, but actually derivatives are critically important in our economy.

For instance, let's say you make candy for a living; you are a candy manufacturer. The price of sugar is an incredibly important factor in determining your bottom line, and the cost of sugar can fluctuate dramatically. All sorts of factors can raise or lower the price of sugar, which is a critical component in your production of candy, but it is a factor you cannot control. You do not necessarily control what happens to the price of sugar as a candy manufacturer. Derivatives can help you manage volatility, and that is why they are so valuable in our economy.

If it sounds like insurance, that is because if used properly, that is exactly what it is.

Let's say you are an investor and you will not be able to afford the loss if your company or government whose bonds you bought defaults. Again, you do not have control over that company's or government's ability to pay you back. So a form of insurance has sprung up in the form of derivatives that would protect you against that kind of default. It is called a credit default swap, or CDS.

Just like a derivatives contract on the price of sugar, it is not necessarily a bad thing. In fact, it could be very helpful in terms of managing volatility and protecting against losses totally unconnected with your activity.

Credit default swaps played a huge role, as we now know, in the lead-up to the financial crisis that has cost our country so much.

For instance, take what happened to AIG, the former insurance giant. Before the crisis, institutions around the world bought credit protection against mortgage-backed securities from AIG, just like you or I might have bought some other, more pedestrian insurance policy. When those mortgage-backed securities failed, AIG owed money to

all of those protection buyers around the world. But AIG, as a seller of CDSs, had no regulatory requirement that it actually have the capital on hand that it would need to pay those parties if, in fact, it was called.

Guess who ended up having to make those counterparties whole. We, the taxpayers, the taxpayers across the country because AIG lacked the capital behind those derivatives. Even worse, because there was no reporting requirement, regulators did not even know where the risks were in the financial system. Because there was no requirement that these transactions run through a clearinghouse, even people in the financial sector could not figure out for sure who was exposed to AIG's potential failure.

The result, of course, was a total freeze in our markets and our financial system because financial sector actors no longer trusted that their counterparties would be creditworthy. And who could blame them? It is like if you did not trust your bank to be around the next day, you would get your money out in a hurry, as many did back 80 years ago when there were no protections. When the word went out, people took to the streets. That is why the bill drawn up in our Banking Committee and Agriculture Committee contains some very tough new rules for CDSs and the rest of the derivatives market.

Under the terms of our bill, CDSs must centrally be cleared and traded on regulated exchanges in order to reduce counterparty risks and to promote transparency and stability in our financial system.

The central clearinghouse will set margin requirements and position limits. Those ideas have been around for decades, by the way, within the commodities markets, going back to the 1870s or 1880s. Margin requirements and collateral requirements have been required; hence, there are very few problems in the commodities markets because of margin requirements and collateral requirements.

The bill before us includes tough new rules for protection sellers, such as AIG and dealers such as Goldman Sachs, that will be registered and regulated by the SEC and CFTC. They will have to face tough new rules to curb excessive risk taking, and all CDSs will be reported through a central clearinghouse, data repository, or directly to regulators.

For the very first time, financial advisers working with municipalities—the people helping to ensure that our communities invest wisely—will have to register and be subject to rules and regulations.

Our colleague from North Dakota, Senator DORGAN, has offered an important amendment to tackle yet another problem, as he sees it, with CDSs. If you owned a house and bought a policy that would pay you money if the house burned down, we would call that insurance. But if you bought that policy on